



(916) 445-8485

March 9, 1978

Dear Mr. _____

This is in response to your February 24, 1978, letter wherein you requested that we review our September 22, 1977, letter to Mr. _____, concerning the finding that property owned by Stanford University and sub-sub-subleased to the Red Cross--Stanford University Blood Center is ineligible for the welfare exemption from property taxation, in light of Mr. Philip Dougherty's February 2, 1978, letter to you indicating that the Red Cross is exempt from sales or use taxes.

While Mr. _____ did state that "We have uniformly considered that the American National Red Cross is an arm of the United States Government and is exempt from the imposition of tax upon it", the statement was made with reference to the taxes he was considering, sales and use taxes. Thus, to avoid confusion, "sales or use tax" should have been substituted for "tax", or the phrase "for sales and use tax purposes" should have been added to the end of the statement.

Revenue and Taxation Code provisions relating to property taxation are separate and distinct from those relating to the sales and use taxes, however, and neither the Red Cross nor other organizations incorporated by acts of Congress are exempt from property taxation per se. Rather, for property owned and/or operated by such organizations to be exempt, a special statute must exist, for example, Section 213.6 of the Revenue and Taxation Code exempting personal property owned and operated by the Civil Air Patrol; or the organization or the organization and the owner or operator of property, as the case may be, must meet all the requirements for exemption in statutes of general application which any organization claiming exemption would have to meet.

Ex. 100.1. 100.1.

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In this instance, there is no special statute, and the property is owned by Stanford University and sub-sub-subleased to the Blood Center. Since the property is not used exclusively by Stanford University for educational purposes, the property is not eligible for the college exemption. Since Stanford University is an educational institution of collegiate grade, not an organization organized and operated for religious, hospital, scientific, or charitable purposes as required by section 214, the property is not eligible for the welfare exemption. The fact that the Red Cross is a qualifying organization does not permit a different conclusion since section 214 requires that both the owner and the operator of property meet all the requirements for exemption.

Nor does the fact that the Red Cross reimburses Stanford University for the property taxes incurred permit a different conclusion. As you have noted in your letter, the taxes are imposed on and paid by Stanford University as the owner of the property, and the Red Cross is merely reimbursing Stanford University for the amounts thereof. Thus, the Red Cross is not being denied an exemption from property taxation: Stanford University is not receiving an exemption with respect to its property because all the requirements for exemption have not been met.

Assuming for purposes of discussion that the Red Cross is an instrumentality of the United States Government, the property would still be subject to tax. In Ohrbach's, Inc. v. County of Los Angeles, 190 Cal. App. 2d 575, a portion of a building was leased to the State of California for a ten year period. The lessor claimed that the State's interest in the property was exempt from property taxation and that the assessor had incorrectly valued the property by failing to deduct the value of that interest. On appeal, the court pointed out that merely because the lessor leased a portion of its premises and did not occupy that portion did not signify that the lessor did not have the use value of the leased portion during the term of the lease, and it held that the lessor should not gain a tax exemption because it leased a portion of its nontax-exempt property to the State. Hence, the entire value of the property, including the value of the State's interest therein, was properly assessed. Under the same reasoning, the entire value of nontax-exempt property of Stanford University leased to the Red Cross would be assessable.

Very truly yours,

J. Kenneth McManigal
Tax Counsel

JKM:fp

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